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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,426	12/03/2003	Catherine Livet	I-2-0439.1US	5825

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VOLPE AND KOENIG, P.C.
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PHILADELPHIA, PA 19103

EXAMINER

MILLER, BRANDON J

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/726,426

Applicant(s)

LIVET ET AL.

Examiner

Brandon J Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 14-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-13, drawn to a method for battery conservation, classified in class 455, subclass 574.
- II. Claim 14, drawn to a method for call admission control, classified in class 455, subclass 445.
- III. Claims 15-22, drawn to a method for congestion control, classified in class 455, subclass 453
- IV. Claims 23-25 and 27-31, drawn to transmission power control, classified in class 455, subclass 522
- V. Claim 26, drawn to a method for executing handover, classified in class 455, subclass 436

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III, IV, and V are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombinations as claimed because the particulars of group II and/or groups III, IV, and V are not required for group I. The subcombinations have separate utility such as battery conservation, as opposed to call admission control, congestion control, transmission control, or handoff.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Steven J. Gelman on 12/06/04 a provisional election was made without traverse to prosecute the invention of group I, claims 1-13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14-31 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7-10, and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Liebenow in view of Murata.

Regarding claim 1 Liebenow teaches a method for battery conservation in a wireless communication system having a wireless transmit/receive unit and a base station control system (see paragraphs [0006] and [0017]). Liebenow teaches requesting a battery level measurement from the wireless transmit/receive unit by base station (see paragraph [0019]). Liebenow teaches measuring the battery level at the wireless transmit/receive unit; and reporting the battery level measurement from the wireless transmit/receive unit to the base station (see paragraphs [0017] and [0019]). Liebenow teaches storing the battery level measurement in the base station;

accessing the battery level measurement by a control system in the base station; and applying the battery level measurement to control system procedures, whereby the battery of the wireless transmit/receive unit is conserved due to adjustments made to the procedures based on the battery level measurement (see paragraphs [0006] and [0019]). Liebenow does not specifically teach a radio network controller or radio resource management procedures. Murata teaches a method for battery conservation in a wireless communication system having a wireless transmit/receive unit and a base station that communicates with a base station controller, and using radio management procedures to conserve the battery of the wireless transmit/receive unit (see paragraphs [0016] and [0022]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a radio network controller or radio resource management procedures because this would allow for improved management of power consumption of mobile wireless terminals having an active communication connection.

Regarding claim 2 Liebenow teaches sending a measurement control message from the base station to a wireless transmit/receive unit (see paragraph [0019]).

Regarding claim 3 Liebenow teaches wherein the measurement control message includes measurement-reporting criteria (see paragraph [0019]).

Regarding claim 4 Liebenow teaches sending a measurement report message from the wireless transmit/receive unit to the base station (see paragraph [0017]).

Regarding claim 7 Liebenow teaches a system for battery conservation in a wireless communication system having a wireless transmit/receive unit and a base station control system (see paragraphs [0006] and [0017]). Liebenow teaches requesting a battery level measurement

from the wireless transmit/receive unit by base station (see paragraph [0019]). Liebenow teaches measuring the battery level at the wireless transmit/receive unit; and reporting the battery level measurement from the wireless transmit/receive unit to the base station (see paragraphs [0017] and [0019]). Liebenow teaches storing the battery level measurement in the base station; accessing the battery level measurement by a control system in the base station; and applying the battery level measurement to control system procedures, whereby the battery of the wireless transmit/receive unit is conserved due to adjustments made to the procedures based on the battery level measurement (see paragraphs [0006] and [0019]). Liebenow does not specifically teach a radio network controller or radio resource management procedures. Murata teaches a system for battery conservation in a wireless communication system having a wireless transmit/receive unit and a base station that communicates with a base station controller, and using radio management procedures to conserve the battery of the wireless transmit/receive unit (see paragraphs [0016] and [0022]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a radio network controller or radio resource management procedures because this would allow for improved management of power consumption of mobile wireless terminals having an active communication connection.

Regarding claim 8 Liebenow and Murata teach a device as recited in claim 2 and is rejected given the same reasoning as above.

Regarding claim 9 Liebenow and Murata teach a device as recited in claim 3 and is rejected given the same reasoning as above.

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Regarding claim 10 Liebenow and Murata teach a device as recited in claim 4 and is rejected given the same reasoning as above.

Regarding claim 13 Liebenow and Murata teach a device as recite in claim 7 except for storing that includes a database in a radio network controller. Liebenow does teach storing a battery capacity measurement in a base station (see paragraph [0019]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the storage device of Liebenow to include a database because this would allow for efficient information handling when managing power consumption in mobile wireless terminals.

Claims 5-6 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebenow in view of Murata and Cannon.

Regarding claim 5 Liebenow and Murata teach a device as recited in claim 4 except for a measurement report message that includes the number of remaining minutes of talk time and the number of remaining minutes of idle time. Liebenow does teach a battery level report message (see paragraph [0019]). Cannon teaches sending battery information that includes the number of remaining minutes of talk time and the number of remaining minutes of idle time (see col. 3, lines 39-42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the measurement message of Liebenow to include a measurement report message that includes the number of remaining minutes of talk time and the number of remaining minutes of idle time because this would allow for improved management of power consumption of mobile wireless terminals having an active communication connection.

Regarding claim 6 Cannon teaches a measurement report message that includes the percentage of available battery power remaining (see col. 3, lines 39-43).

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Regarding claim 11 Liebenow, Murata, and Cannon teach a device as recited in claim 5 and is rejected given the same reasoning as above.

Regarding claim 12 Liebenow, Murata, and Cannon teach a device as recited in claim 6 and is rejected given the same reasoning as above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Irvin U.S Patent No. 6,029,074 discloses a handheld cellular telephone with power management features.

Petersson U.S. Patent No. 6,567,670 B1 discloses a subscriber station, network control means and method for triggering inter-frequency measurement in a mobile communication system.

Thierry et al. U.S Patent No. 6,748,245 B1 discloses a method for managing power supply to a cellular radiotelephone station.

Bhatooolaul et al. Pub. No.: US 2002/0058537 A1 discloses a radio telecommunications network, user equipment and method of operation.

Sheynblat et al. Pub. No.: US 2002/0016189 A1 discloses a method and apparatus for providing reserve power in a cellular telephone.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J Miller whose telephone number is 703-305-4222. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 7, 2004



WILLIAM TROST
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